

**"FEAR OF LIVING," THE UNITED STATES,
AND THE FUTURE OF LATIN AMERICA**

I. Introduction

Good morning. In Venezuela and elsewhere in Latin America, we are hearing more and more proposals that the government should restrict individual choices and behavior "for our own good." Whether the issue is smoking in public, drinking wine with dinner, consuming delicious foods, or even wearing perfume, it seems that there is someone who thinks that the government should regulate it.

Until recently, we always had a "live and let live" attitude in Latin America. We enjoy sensual pleasures and the good things life has to offer to the fullest extent possible. We have more important things to worry about than whether our neighbor is behaving in ways we believe are not good for him.

Increasingly, however, we see these attitudes and traditions under attack. More and more, social activists are arguing that we the people do not know what is best for us, and therefore the activists -- and the politicians -- should be telling us what to do and how to act. What I would like to talk to you about today is where this attitude, so alien to our traditions, is coming from, and why I believe it must be resisted.

In my view, these intolerant attitudes and repressive proposals to restrict individual behavior should be stamped "Made in the USA." Living in Puerto Rico as I do, I live in two worlds. One is part of the U.S., while the other is firmly rooted in the history and cultural richness of Latin America. From this unique vantage point, I have watched with growing apprehension the development of certain trends and attitudes that

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are shaping U.S. public policy and culture in a way that bodes ill for that country's future. If transplanted to Latin America, I am convinced that it will prove even more pernicious here. The best description I have heard of this particular set of trends and attitudes comes from the late North American journalist emeritus, Henry Fairlie. He called it, "Fear of Living."

"Fear of living" is the idea that every person's life should be completely risk and discomfort free and that no one bears responsibility for his own actions. It is the idea that we are all helpless children, incapable of making our own decisions, who must rely on an ever-vigilant parent -- the state -- to do it for us. It is the idea that if an individual does not behave in ways that government and other cultural authorities believe are in his own best interests, then he must be made to act differently. It is an idea that has been driven so far and deep into U.S. attitudes that it has become a veritable obsession. As Fairlie observed,

"The desire for a risk-free society is one of the most debilitating influences in America today, progressively enfeebling the economy with a mass of safety regulations and widespread fear of liability rulings, and threatening to create an unbuoyant and uninventive society. As many studies show, this is strikingly an American phenomenon, one that seems to have taken root in yet another distortion of the philosophy of rights underlying the constitution, as if the Declaration of Independence had been rewritten to include freedom from risk among the self-evident rights to life, liberty, and the pursuit of happiness. This morbid aversion to risk calls into question how Americans now envision the destiny of their country."^{1/}

^{1/} Henry Fairlie, H., "Fear of Living," The New Republic, January 23, 1989, at 14.

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Fear of living manifests itself in every corner of American life, and it is having an effect on U.S. society that is both polarizing and paralyzing. I'd like to share with you a few illustrative examples of this strange obsession, and explain why I believe that if this attitude is allowed to take root in Venezuela and the rest of Latin America, it will have even more disastrous consequences than in the United States.

II. The Perfume Police and Other Frivolous Tales

The ire of the anti-risk social activists in the U.S. is particularly reserved for products once thought to be an integral part of a gracious lifestyle. In California, an organization called the Environmental Health Network currently is campaigning to have the wearing of perfume, aftershave lotion and cologne banned in restaurants and other public places. The stated rationale: to protect the "dining pleasure" of those claiming to be hypersensitive to such fragrances.^{2/} Anti-fragrance activists call it "scent rape." According to Susan Molloy, the group's founder, "[s]ome people don't take it seriously and think we're kidding or being frivolous."^{3/} No, Miss Molloy, unfortunately it is all too clear that you intend to be taken very seriously indeed.

A similar campaign has been mounted against the consumption of wine and other beverages containing alcohol. Anti-alcohol activists, sometimes called "neoprohibitionists," see alcohol as a threat to society and blame it for safety and health problems ranging from child abuse to cancer. Neoprohibitionists have moved beyond

^{2/} "Health: Why Perfume is Causing a Stink in California," The Independent, May 29, 1992, at 15.

^{3/} "Ban on Perfume at Meetings Urged," Los Angeles Times, August 29, 1991, at A31.

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earlier, praiseworthy efforts to curtail drunken driving and alcoholism to a more general attack on consumption of any kind. Toward this end, they advocate a variety of repressive government regulations, including more warning labels, higher taxes, and restrictions on when and where alcohol may be sold. They also repeatedly have called for bans on the advertising of alcohol containing beverages as well as the sponsorship by alcohol beverage companies of sporting and cultural events.^{4/}

Many observers see the attack on wine, beer and other alcohol containing beverages as part of a broader pattern of manipulation and hysteria about food. Others deplore it as another self-centered, moralistic attack on personal autonomy and enjoyable, gracious living. As the renowned chef Julia Child lamented, "[f]or centuries and centuries, all, including Jesus Christ, drank wine. It's just part of civilized life."^{5/}

None of this can compare, however, with the war currently being waged against individuals who smoke. That war has escalated into something approaching a witch hunt. In addition to heavy government regulation of smoking in public and work places, some employers are beginning to fire employees who smoke not just while on the job, but while off the job as well. Such employers demand that their employees submit to urine tests and other assaults upon personal dignity and privacy, all in the name of "health."^{6/}

^{4/} "Wine World on the Offensive," New York Times, May 23, 1990, at C1.

^{5/} Ibid.

^{6/} "Accusations, Busybodies, New Puritans," Time, August 12, 1991, at 20.

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Equally alarming is that smoking by the custodial parent has now become an issue in child custody suits in the U.S.^{7/} Some antismoking crusaders publicly have declared that smoking in the vicinity of a minor constitutes "child abuse" that should be prosecuted by the civil authorities.^{8/} Here in Venezuela, there already is a proposal before the Congress to prohibit smoking "in the presence of children and pregnant women."^{9/} Such an ambiguous and broad prohibition certainly could be interpreted to prohibit smoking literally everywhere, including in the privacy of one's own home.

Employer efforts to control employees' personal lifestyle decisions are by no means limited to smoking. A company with a no alcohol consumption rule in Indiana fired an employee for social drinking while off the job.^{10/} An Atlanta, Georgia company forbade its employees to engage in any dangerous activities, including motorcycle riding, skydiving, mountain-climbing and driving a race car.^{11/} As Time magazine noted,

"The U.S. may still be the land of the free, but increasingly it is also the home of dedicated neo-Puritans, humorlessly imposing on others arbitrary (meaning their own) standards of behavior, health and thought. To a number of concerned

^{7/} "Smoking Could Become Custody Battle Weapon," Michigan Lawyers Weekly, June 24, 1991, at 1.

^{8/} "EPA Says Secondary Smoke Causing Illness in Thousands of Children," The Associated Press, June 18, 1992 (wire service report).

^{9/} "Act for the Protection of Health from the Damages Caused by Tobaccoism," Bill Before the Congress of the Republic of Venezuela, Article 18.

^{10/} "Down With the Killjoys," The Sunday Telegraph, December 22, 1991, at 19.

^{11/} "Is Nothing Private Anymore?" ABC News, "20/20," January 24, 1992 (transcript of broadcast).

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observers, the busybodies -- conformity seekers, legal nitpickers and politically correct thought police -- seem to have lost sight of a bedrock American virtue: tolerance, allowing others, in the name of freedom, to do things one disagrees with or does not like, provided they do no outright harm to others.^{12/}

Even the war against illegal drugs has been taken to hysterical extremes. A fourteen year old Ohio student, for example, was suspended from school for having given a fellow student two tablets for a headache. The reason given by the school administrator for the suspension decree: the student was distributing "drugs" in violation of school policy!^{13/}

Things are so bad in the United States that, truly, nothing is sacred anymore. North Americans already have been frightened about consuming any palatable food. Red meat, butter, coffee and eggs all have joined the list of forbidden pleasures. Just last month, the Physician's Committee on Responsible Medicine, a group that includes Dr. Benjamin Spock, the world's most famous pediatrician, announced that giving milk to children is bad for their health!^{14/} The U.S. Department of Agriculture also announced that after years of urging consumers to eat margarine to lower cholesterol and improve their health, a new study has determined that margarine has exactly the same effects on blood cholesterol levels as butter or lard!^{15/} At the rate

^{12/} "Accusations, Busybodies, New Puritans," supra.

^{13/} "Drug-Free School Suspends Student for Sharing Tylenol," New York Times, February 29, 1992, at 1-16.

^{14/} "Food Fight of the Week: Milk," New York Times, October 4, 1992, at 4-2.

^{15/} "U.S. Spreading the Bad News on Margarine," The Daily Telegraph, October 8, 1992, at 8.

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things are going, U.S. residents will be reduced to eating birdseed and perhaps a few organically grown root vegetables.

Absurd as they may seem, these extreme positions are the model for the proposals now being advanced in Venezuela and in other countries.

III. Warning: Life Can Be Hazardous To Your Health

One of the most obvious examples of the obsessive fear of even the smallest risk in the U.S. is the proliferation of personal injury lawsuits. The U.S. tort system originally evolved as a way to obtain compensation for personal injuries caused by the negligent or reckless behavior of others. Over the past thirty years, however, the U.S. tort system has deteriorated into a quixotic crusade for a risk-free society.

Examples of this crusade abound. A man deliberately jumps in front of a New York subway train, files a lawsuit, and wins \$650,000 because the train failed to stop in time to avoid injuring him.^{16/} The estate of a Massachusetts man who stole a car from a parking lot and subsequently was killed in an accident sues the lot's proprietor for failing to prevent auto thefts.^{17/} A woman sues her veterinarian for \$1 million for the emotional distress she suffered when he allegedly injured her pet iguana.^{18/}

My very favorite example of the absurd lengths to which personal injury lawsuits have been taken in the U.S., however, is that of a Philadelphia soothsayer who

^{16/} "Legal Damages," The Washington Post, March 15, 1992, at W11.

^{17/} "Exculpations, Crybabies, Eternal Victims," Time, August 12, 1991, at 16.

^{18/} "Legal Damages," supra.

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claimed that she lost her psychic powers after undergoing a CAT scan. According to the woman, the dye used as part of the procedure interfered with her ability to communicate with the 17th century English poet, John Milton. A jury awarded her almost \$1 million in damages.^{19/}

Manufacturers of products have been particularly hard hit by the liability explosion. Many have withdrawn or refused to market products that present potential liability risks. Others have responded by inundating consumers with warning labels on even the most mundane consumer products. In the United States, an ordinary aluminum extension ladder, for example, now carries 44 separate instructions.^{20/}

Overlabeling also has been fueled by a multiplicity of government laws and regulations. My favorite example are the laboratory safety rules issued by the U.S. Occupational Safety and Health Administration, or "OSHA" as it is known. Imagine for a moment that you are a laboratory technician. You are asked to handle a variety of potentially hazardous chemicals. Fortunately, OSHA has issued rules that protect you by requiring a variety of warnings on the labels of these extremely dangerous substances. Now imagine that you pick up one of the bottles of laboratory chemicals. You read the label. It says in large letters, "WARNING: CAUSES IRRITATION. Avoid contact with eyes, skin or clothing. Avoid breathing dust. Wash thoroughly after handling." What do you imagine that bottle contains? Cyanide, perhaps? Some caustic chemical

^{19/} "Knocking the System," National Journal, November 23, 1991, at 2844.

^{20/} Lehto and Miller, The Effectiveness of Warning Labels, II Journal of Products Liability 225 (1988).

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used in industrial processes? You'd be wrong. The "hazardous" chemical is sodium chloride: ordinary table salt. The OSHA-mandated material safety data sheet that accompanies this dangerous chemical is even more severe. It warns the laboratory worker to "[w]ear [a] respirator, chemical safety goggles, rubber boots and heavy rubber gloves" in the event that some salt spills.^{21/}

This is not an isolated example. Another chemical supplier provides the following advisory about another substance. "After contact with skin, wash immediately with plenty of soap and water. * * * Special Firefighting Procedures: Wear self-contained breathing apparatus and protective clothing to prevent contact with skin or eyes. * * * Waste Disposal Method: Dissolve or mix the material with a combustible solvent and burn in a chemical incinerator equipped with an afterburner and scrubber. Observe all federal, state and local environmental regulations."^{22/} The hazardous chemical described in this advisory is paraffin wax. You know it as the substance from which ordinary candles are made.

As far as government-mandated warning labels are concerned, nowhere is the hysteria more intense than in California. In 1986, California voters approved a law known as "Proposition 65." It requires warning labels on all products and in all places where people might be exposed to a substance that the state of California has deemed to be a carcinogen or a reproductive toxicant. The list of such substances, needless to say,

^{21/} "Spilled Some Salt? Call OSHA," Wall Street Journal, July 9, 1991, at A18.

^{22/} Ibid.

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is quite lengthy. The result of this requirement is a proliferation of warning labels almost comic in its dimensions. Some examples include:

In an office --

- o WARNING: This water cooler may leach a chemical known to the State of California to cause cancer, birth defects or other reproductive harm.

In a dry-cleaning shop --

- o WARNING: Detectable amounts of perchloroethylene or dry cleaning solvent may be encountered in this facility or in newly cleaned garments.
Perchloroethylene has been identified by the state of California as known to cause cancer.

In a gas station --

- o WARNING: Chemicals known to the state to cause cancer, birth defects or other reproductive harm are found in gasoline, crude oil and many other petroleum products and their vapors or result from their use. Read and follow label directions and use care when handling or using all petroleum products."

Indeed, warning labels are so ubiquitous that people have stopped paying attention to them. The price of warning about even small theoretical risks is that people ignore warnings about things that are truly dangerous.

Activists pushing antitobacco proposals in the Venezuelan Congress seem to have caught this "warning fever" from the U.S. Another proposal before Congress would require cigarette warnings to occupy no less than one quarter of the surface area on both sides of the pack, making it difficult to fit much information other than the

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warning on the product label. The proposal even specifies the size of the letters to be used.

IV. Terminally Ill Patients Should Not Have "Unsafe Drugs"

Not surprisingly, fear of living is extremely intense in the area of food and drug regulation. The track record of the U.S. Food and Drug Administration, or FDA, in approving new, life-saving technologies would be comic if it were not so tragic. FDA conducts the most exhaustive drug approval process in the entire world. No new drug or medical device can be marketed unless the manufacturer proves to the government through extensive and expensive human and animal tests that it is both safe and effective.

There is no harm in this approach as a theoretical matter, but in practice the agency has taken its mandate to approve only "safe" products to an extreme. On numerous occasions, the agency has refused to approve drugs for AIDS, Alzheimer's Disease and other conditions that will lead to a long, agonizing and certain death if not treated, on the grounds that the new drug may not be safe! Obviously, the choice for a terminally ill person is not between a safe drug and an unsafe drug; it is between life and death.

Last year, for example, FDA refused to approve a drug known as tacrine for the treatment of Alzheimer's Disease. Tacrine represents a first step in mitigating the worst symptoms of this dread disease, which is the fourth leading cause of adult death in the U.S. It is not a cure and, like all drugs, it causes undesirable side effects in some patients, but it appears to help some patients regain their ability to do ordinary

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tasks. There is no other drug intended specifically for the treatment of Alzheimer's and, thus, tacrine is the only hope for four million Americans who suffer from Alzheimer's and their families. When the choice is between a long, slow mental deterioration leading inexorably to death, and a treatment that may allow the patient to live out his last days with some dignity and normality, is there really a choice? And if there is a choice, should it not be the decision of the patient and/or his family?

For FDA, however, the perfect is the enemy of the good. Until its arbitrary, bureaucratic standards of "safety" and "effectiveness" can be met, FDA is content to turn thousands of desperate people into criminals, forced to obtain this life-restoring drug clandestinely, by traveling to other countries or by smuggling.

Shortly after FDA refused to approve tacrine, a gentleman name Woodrow Wirsig wrote a moving letter about the experience of his wife, Jane, a victim of Alzheimer's who had been treated successfully with tacrine prior to her death. In his conclusion, he said,

"[m]ost families are willing to go to any lengths just to have closure -- to say once again to their loved ones 'I love you' and to have them understand, to smile and respond 'I love you, too.'

Will the FDA ever stop trying to establish a risk-free society among the terminally ill?"^{23/}

V. The Decline of the Questing Spirit

The irony of all this panic, of course, is that U.S. citizens enjoy longer, healthier and safer lives than any other people anywhere and at any time in history. It is

^{23/} "An Alzheimer's Demonstration," Wall Street Journal, April 30, 1991, at A24.

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not rational. Rather, it seems to arise out of a combination of wealth, obsessive anxiety about mortality, and the need for a secular religion. As sociologist Peter Berger puts it, people are looking for "the utopia of a rationally planned life * * * in which the pursuit of happiness is ever more fully guaranteed."^{24/} It is a society coddled into thinking it can, if it takes enough precautions, avoid death itself.

Fear of living thus appears to be a self-indulgent luxury. Like gout, it is a disease of the affluent. Even the affluent, however, can only afford so much of it, for at some point it will enervate a society's will and spirit beyond repair. As Mr. Fairlie observed,

"If America's new timorousness had prevailed among the Vikings, their ships with the bold prows but frail hulls would have been declared unseaworthy. The Norsemen would have stayed home and jogged. Columbus's three tubs would not have been allowed to sail * * *. The Vikings and Columbus were exploring what was as unknown to them then as our solar system is to us today, and it is not only the practical achievements of such venturing that are frustrated by the desire for a risk-free society. Something of the questing endeavor of the human spirit is also lost. The Vikings made sagas of their explorations, as European and English literature flowered during the great Age of Exploration. There once was, but there is not now, a promise of saga in America. Its literature has retreated into a preoccupation with private anxieties and fretting."^{25/}

VI. Why Latin America Cannot Afford to Import the Fear of Living

^{24/} Id. at 30.

^{25/} Fairlie, supra.

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You may ask, what difference does it make to Latin America if the United States wants to exhaust itself in pursuit of a quasi-religious crusade for perfect safety? The reason why I am concerned is that, like it or not, the United States continues to dominate world popular culture. North American trends and attitudes inevitably are transferred to the developing world. As the most recent proposals in Venezuela demonstrate, these attitudes already have made alarming inroads.

As an affluent nation, the U.S. can afford to joust with windmills for a considerable length of time before the worst consequences are felt. The developing world, however, cannot afford this luxury. It cannot afford to have its own "questing spirit" dragged down into fretfulness, just at a time when that spirit is awakening to a new and better day.

Latin America still has many major challenges to be surmounted. Although we have made major progress, great obstacles still lie ahead. What we absolutely cannot afford is to be distracted from this great and worthy enterprise by the kind of decadent and effete attitudes and anxieties that are now sapping the U.S. of its once legendary vitality, personal initiative and entrepreneurial spirit.

When the outside air cannot be breathed without choking in many large Latin American cities, and when typhoid and cholera epidemics still rage in places without adequate basic sanitation, it is sheer madness to become preoccupied with follies such as "scent rape" and the hypothetical risks presented by a glass of wine at dinner or the whiff of someone's cigarette. When children are malnourished or sold into prostitution because their parents are too poverty-stricken to care for them, can we

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afford the kind of attitudes that would devote a million dollars to compensating a fortune teller for her alleged loss of psychic powers? Kindly remember, moreover, that this soothsayer supposedly lost her powers after she received a CAT scan, a highly sophisticated and expensive medical diagnostic procedure that the vast majority of Latin Americans can only dream about.

Something is sadly wrong with a country that allows itself to become distracted and enervated by such preoccupations. I know of no way to reverse this degeneration of the spirit in the United States, but I know that the importation of the "fear of living" into Latin America and the rest of developing world is a luxury that we simply cannot afford. It is a form of cultural imperialism more dangerous to the long term health, wealth and prosperity of Latin America than economic or military interference ever was. The proposals we hear today are only the first step on what is a long, slippery slope. I urge all Latin Americans to consider the consequences carefully before we decide to imitate the U.S. by adopting "fear of living" as a basis for public policy.

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